IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

WP(C).No. 28547 of 2006(W)

PETITIONER:

S.KRISHNAKUMAR,
S/O.SANKARAPILLAI, AGED 46 YEARS,
RESIDING AT RADHAVILASAM, VALIYARA,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR

RESPONDENTS:

1. STATE OF KERALA,
REP. BY ITS SECRETARY FOR CO-OPERATION,
GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM.

2. JOINT REGISTRAR OF CO-OP. SOCITIES
(GENERAL),
VANCHIYOOR, THIRUVANANTHAPURAM.

3. VELLANADU SERVICE CO-OP. BANK LTD.
NO. 2379, VELLANADU, THIRUVANANTHAPURAM,
REP. BY ITS SECRETARY.

4. ADMINISTRATOR,
VELLANADU SERVICE CO-OP. BANK LTD. NO. 2379,
VELLANADU, THIRUVANANTHAPURAM.

5. V.SASIDHARAN NAIR,
ADIYILA VEEDU, VALIYARA,
VELLANADU P.O., THIRUVANANTHAPURAM.

BY SENIOR GOVT. PLEADER SRI.P.N.SANTHOSH
BY ADV. SRI.JOHNSON MANAYANAI FOR R4.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/12/2006, ALONG WITH W.P.(C) 31895/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

W.P.(C) Nos.28547 & 31895 of 2006

Dated this the 27th November, 2006.

J U D G M E N T

The prayer of the writ petitioner, in W.P.(C) No.28547/2006, is to direct the second respondent, Joint Registrar of Co-operative Societies (General), Vanchiyoor, Thiruvananthapuram, is to appoint a full time Administrator or an Administrative Committee, in the place of the departmental official, presently functioning as the Administrator of the Vellanadu Service Co-operative Bank Ltd.2379, in short 'the Bank', for the proper implementation of the directions contained in Exts.P2, P4 and P8 judgments of this Court, and also Exts.P3 and P5 orders of the Joint Registrar. Further, it is also prayed that the ineligible persons may be directed to be removed from the rolls of the Society.

2. W.P.(C) No.31895/2006 is preferred by the writ petitioners praying to direct the Electoral Officer conducting election to the managing committee of the bank to include all the members, 14,595 in numbers, of the Bank in its electoral roll, so that they could participate in the election scheduled on 28.12.2006. It is also further prayed to direct the Electoral Officer not to exclude any member from exercising the voting right in the election scheduled on 28.12.2006.

3. I heard all counsel who are appearing for the respondents in both these writ petitions. Counter affidavits have also been filed.

4. The learned counsel, Sri.Johnson Manayani, representing the Bank has filed a counter, and brought to the notice of this Court that the preliminary voters list was published on 27.11.2006. After the expiry of the last date for considering objections on the Preliminary list, on 30.11.2006, a final list has already been published on 1.12.2006. As per the election schedule, the nomination papers has to be filed on 6.12.2006. Further, the schedule of the election is also given as per the notification dated 13.11.2006. The election date has been fixed as 28.12.2006, as per the Order of this Court in another Writ Petition.

5. The learned counsel, Dr.K.P.Satheesan, appearing for the writ petitioners in W.P.(C) No.31895/2006 has submitted that the names of the petitioners are not included in the voters' list, and therefore, a direction may be given to permit them to vote. However, this has been objected to by the learned counsel appearing for the Bank, as well as the Senior Government Pleader, on the plea that, in

case of any dispute, with regard to the inclusion or exclusion of the names of any of the members of the Society from the final Voters' List, the same could be raised as a dispute, under Section 69(2)(c) of the Kerala Co-operative Societies Act, 1969, and the explanation thereto.

6. After hearing all concerned, I dispose of these writ petitions directing the Returning Officer conducting election to the Vellanadu Service Co-operative Bank Ltd.No.2379, Vellanadu, Thiruvananthapuram, to conduct the election as per the schedule.

7. The interim order dated 1.12.2006 is hereby vacated. However, if the writ petitioners in W.P.(C) No.31895/2006 raise any dispute before the Arbitration Court, the Arbitrator shall pass appropriate orders, after hearing all concerned, so that the claim of the petitioners to allow them to vote will stand disposed of, well before the date of election.

J.M. JAMES,
JUDGE

nj.